

§ 201.16

37 CFR Ch. II (7–1–14 Edition)

One of these specific conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

(c) *Form and manner of use.* (1) A Display Warning of Copyright shall be printed on heavy paper or other durable material in type at least 18 points in size, and shall be displayed prominently, in such manner and location as to be clearly visible, legible, and comprehensible to a casual observer within the immediate vicinity of the place where orders are accepted.

(2) An Order Warning of Copyright shall be printed within a box located prominently on the order form itself, either on the front side of the form or immediately adjacent to the space calling for the name or signature of the person using the form. The notice shall be printed in type size no smaller than that used predominantly throughout the form, and in no case shall the type size be smaller than 8 points. The notice shall be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual reader of the form.

(Pub. L. 94–553; 17 U.S.C. 108, 702)

[42 FR 59265, Nov. 16, 1977]

§ 201.16 Verification of a Statement of Account and royalty fee payments for secondary transmissions made by cable systems and satellite carriers.

(a) *General.* This section prescribes procedures pertaining to the verification of a Statement of Account and royalty fees filed with the Copyright Office pursuant to sections 111(d)(1) and 119(b)(1) of title 17 of the United States Code.

(b) *Definitions.* As used in this section:

(1) The term *cable system* has the meaning set forth in § 201.17(b)(2).

(2) *Copyright owner* means any person or entity that owns the copyright in a work embodied in a secondary transmission made by a statutory licensee

that filed a Statement of Account with the Copyright Office for an accounting period beginning on or after January 1, 2010, or a designated agent or representative of such person or entity.

(3) The term *satellite carrier* has the meaning set forth in 17 U.S.C. 119(d)(6).

(4) The term *secondary transmission* has the meaning set forth in 17 U.S.C. 111(f)(2).

(5) *Statement of Account* or *Statement* means a semiannual Statement of Account filed with the Copyright Office under 17 U.S.C. 111(d)(1) or 119(b)(1) or an amended Statement of Account filed with the Office pursuant to § 201.11(h) or § 201.17(m) of this chapter.

(6) *Statutory licensee* or *licensee* means a cable system or satellite carrier that filed a Statement of Account with the Office under 17 U.S.C. 111(d)(1) or 119(b)(1).

(c) *Notice of intent to audit.* (1) Any copyright owner that intends to audit a Statement of Account for an accounting period beginning on or after January 1, 2010 must notify the Register of Copyrights no later than three years after the last day of the year in which the Statement was filed with the Office. The notice of intent to audit may be filed by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners. The notice shall identify the statutory licensee that filed the Statement(s) with the Copyright Office, the Statement(s) and accounting period(s) that will be subject to the audit, and the party that filed the notice, including its name, address, telephone number, facsimile number, and email address. In addition, the notice shall include a statement that the party owns, or represents one or more copyright owners that own, a work that was embodied in a secondary transmission made by the statutory licensee during one or more of the accounting period(s) specified in the Statement(s) of Account that will be subject to the audit. A copy of the notice of intent to audit shall be provided to the statutory licensee on the same day that the notice is filed with the Copyright Office. Within 30 days after the notice has been received in the Office, the Office will publish a notice in

the FEDERAL REGISTER announcing the receipt of the notice of intent to audit.

(2) Within 30 days after a notice of intent to audit a Statement of Account is published in the FEDERAL REGISTER pursuant to paragraph (c)(1) of this section, any other copyright owner that owns a work that was embodied in a secondary transmission made by that statutory licensee during an accounting period covered by the Statement(s) of Account referenced in the FEDERAL REGISTER notice and that wishes to participate in the audit of such Statement(s) must provide written notice of such participation to the statutory licensee and to the party that filed the notice of intent to audit. A notice given pursuant to this paragraph may be provided by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners, and shall include all of the information specified in paragraph (c)(1) of this section.

(3) Once a notice of intent to audit a Statement of Account has been received by the Office, a notice of intent to audit that same Statement will not be accepted for publication in the FEDERAL REGISTER.

[78 FR 78258, Dec. 26, 2013]

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by section 111(d)(2) of title 17 of the United States Code in order for secondary transmissions of cable systems to be subject to compulsory licensing.

(b) *Definitions.* (1) Gross receipts for the “basic service of providing secondary transmissions of primary broadcast transmitters” include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees. In no case shall gross receipts be less than the cost of obtaining the signals of primary broadcast transmitters for subsequent retrans-

mission. All such gross receipts shall be aggregated and the distant signal equivalent (DSE) calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection, or reconnection) fees, separate charges for security, alarm or facsimile services, charges for late payments, or charges for pay cable or other program origination services: *Provided That*, the origination services are not offered in combination with secondary transmission service for a single fee.

(2) A *cable system* is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, microwave, or other communications channels to subscribing members of the public who pay for such service. A system that meets this definition is considered a “cable system” for copyright purposes, even if the FCC excludes it from being considered a “cable system” because of the number or nature of its subscribers or the nature of its secondary transmissions. The Statements of Account and royalty fees to be deposited under § 201.17 of this section, shall be recorded and deposited by each individual cable system desiring its secondary transmissions to be subject to compulsory licensing. The owner of each individual cable system on the last day of the accounting period covered by a Statement of Account is responsible for depositing the Statement of Account and remitting the copyright royalty fees. For these purposes, and the purpose of § 201.17 of this section, an “individual” cable system is each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission in effect on the last day of the accounting period covered by a Statement of Account, in the case of the preparation and deposit of a Statement of Account and copyright royalty fee. For these purposes, two or more cable facilities